

GLOBAL NEGOTIATIONS

The President's position on global negotiations, as put forward at Cancun, provided that:

- the United States would not return to preparatory talks if they were to be conducted on the basis of U.N. Resolution 34/138;
- the United States would be willing to participate in preparatory talks if these talks could, on a new basis, meet four conditions:
 - 1) practical orientation focusing on specific potential for and obstacles to development;
 - 2) respect for and preservation of the competence, functions, powers, voting arrangements, and charters of the specialized international institutions -- and no new international institutions;
 - 3) focus on conditions necessary to increase economic development;
 - 4) be conducted in a cooperative spirit.

The President's position requires that:

- the old basis of preparatory talks be set aside, i.e. Res. 34/138;
- a new basis for preparatory talks be created in line with the four U. S. conditions;
- the United States then agree to engage in preparatory talks to see what might be achieved;
- the United States enter Global Negotiations only after the satisfactory and mutually acceptable completion of the preparatory process.

The NSC will consider whether the resolution at Tab B meets the requirements of the President's position. An NSC discussion paper drafted by State is attached.

The following additional facts are relevant to this discussion:

- Since December 1979 when U.N. Resolution 34/138 was passed, the United States has argued that Global Negotiations cannot be launched until there is satisfactory agreement on agenda and procedures. As the U.S. representative said in a formal statement

State Dept. review completed

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at the time, "Operative paragraphs 1 and 5 of Res. 34/138 commit us all to the principle of global negotiations; however, the beginning of these negotiations is subject to satisfactory and mutually acceptable completion of the preparatory process" (statement by Ambassador William Vanden Neuvel, December 14, 1979).

- The preparatory process that followed passage of Res. 34/138 failed to reach agreement on agenda and procedures and was suspended in May 1981 to await the results of the Ottawa and Cancun Summits.
- The resolution at Tab B does not convene a new preparatory process but the U.N. Conference for Global Negotiations which "will first establish the procedures, agenda and time-frame for the global negotiations."

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DEPARTMENT OF STATE

Washington, D.C. 20520

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December 7, 1981

MEMORANDUM FOR MR. JAMES W. NANCE
THE WHITE HOUSE

Subject: Discussion Paper for NSC Meeting

We attach the materials for tomorrow's NSC
discussion of global negotiations.

L. Paul Bremer, III
Executive Secretary

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NSC DISCUSSION PAPER

SUBJECT: Global Negotiations

Issue for Decision

Should the U.S. agree to a United Nations resolution, to be adopted by consensus, "launching global negotiations"?

If so, is the resolution presented at TAB B sufficiently protective of our interests?

The Situation

Reasonably or not, a nation's position on global negotiations is widely seen as a test of its attitude toward the less developed countries. At Cancun, the President affirmed U.S. willingness to participate in preparations at the U.N. and elsewhere for a mutually acceptable process of global negotiations, in circumstances offering the prospect of meaningful progress. He defined those circumstances as protection of the specialized agencies, orientation toward global development, concern with meaningful issues, and talks in a constructive atmosphere. This position brought great political benefit by preventing the U.S. from being tagged as the country blocking economic |development of the Third World.

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Since Cancun, there have been several weeks of consultations at the U.N., resulting in the draft resolution given at TAB A. All the countries participating in those discussions, including Japan, the EC, Canada, the Soviet bloc, and the G-77 group of less developed countries accept that resolution and are prepared to vote for it.

Ambassador Kirkpatrick has indicated the U.S. almost surely could not agree to the resolution in its present form. At the urging of the UK mission, US and EC representatives at the UN met last Friday and produced the altered version, given at TAB B. The alterations do two things: (1) resolution 34/138 is simply noted, instead of reaffirmed; (2) in a totally revised operative paragraph four, the separate jurisdiction, competence, functions and powers of the specialized agencies are explicitly recognized.

An additional "fix" might be to insert the word "preliminary" before the word "Conference" in operative paragraph one, to emphasize that this is only the first step in the process, but it is Ambassador Kirkpatrick's judgement that this would overload the circuits and make it more difficult to sell the revised paragraph four. She also points out the the preliminary character of the Conference is already recognized in operative paragraph two, which says that the first step of the Conference must be to establish procedures, agenda, and timeframe.

It is not possible to predict at this time whether the G-77 countries will accept the TAB B version, but it is

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Ambassador Kirkpatrick's judgement that submitting this version will once again certify our good faith.

Additional arguments pro and con the TAB B version are presented in the following pages.

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ARGUMENTS IN FAVOR

1. What does it cost the U.S.?

Nothing. This resolution commits us to processes that cost nothing. For decades, the U.S. has been throwing money at the less developed countries and reaping no political benefit.

With this resolution we would offer symbolic political gratifications that cost no money.

2. What does it commit us to?

Nothing, except to talks. We can get out at any time. To get out when there is a specific disagreement would seem more sensible to all than to refuse to discuss further.

3. Does it protect the U.S. against decisions that are unacceptable to us?

Yes, we have a veto over all decisions in Global Negotiations by way of the rule of consensus which is applicable throughout.

4. Does it commit us to discussing subjects we would rather not discuss?

No, the formulation of an agenda, procedures and time frame came first. This too will be decided by consensus giving us a veto.

5. Does it conform to the four understandings enunciated by the President at Cancun?

Basically, yes.

A. The rule of consensus goes as far as an institutionalized procedure can to diminish potential confrontations. It can moreover, be supplemented by informal agreements with allies.

B. The resolution protects the competence and powers of the specialized agencies against any decisions of the United Nations. It also protects them against duplication of their functions.

C. It does leave identification of a specific agenda to the first phase of negotiations but makes clear nothing can happen until these had been agreed upon.

6. Are we certain the proposed resolution does not weaken the specialized agencies?

The National Foreign Assessment Center of the Central Intelligence Agency has analyzed the Impact of Global Negotiations on the International Financial Institutions, the USUN legal counsel has analyzed them, so have other allied governments. All agree that the processes proposed under this resolution will not damage their independent legal status or autonomous decision making. The reasons are

A. The General Assembly has no jurisdiction over them. It can do nothing more than make recommendations which are subject to normal decision making procedures.

B. The specialized agencies are established by intergovernmental agreement; a fact that is recognized in the UN Charter.

C. Their modification is subject to an amendment procedure over which the U.S. has veto.

7. Can the U.S. protect its interests in an ongoing process of global negotiations?

Yes, precisely as we have and will do in arms control negotiations. We have protected U.S. interests in MRFR talks since 1973 --- through four administrations.

8. Will the U.S. decision on global negotiations affect our foreign relations outside the U.N.?

Yes. Unfortunately this is not just a U.N. issue. It will affect our reputation and influence our bilateral and regional relations. Note that Trudeau made four trips last year to promote Global Negotiations, that Herrera Campins expressed his deep concern to you, and that the Australian Foreign Minister just made a trip to New York to promote it.

ARGUMENTS AGAINST JOINING THE RESOLUTION:

1. Will it increase political pressure in international financial institutions?

Probably. The National Assessment Center believes it will increase pressures on the specialized agencies by increasing the "political leverage to accelerage evolutionary Change."

Those pressures already exist. Financial experts are good at resisting such pressures.

2. Will it subject the U.S. to further pressures?

Yes. It will surely involve us in a series of situations such as this one in which the U.S. will be under pressure to "go along" or be an obstacle to consensus.

However, we know how to say no. And we are unlikely ever to be as isolated on a specific issue as on this general one.

TAB A

Draft Resolution

The General Assembly,

Having considered the item entitled "Launching of the Global Negotiations on international economic co-operation for development,

Reaffirming resolution 34/138,

1. Decides to convene a United Nations Conference for Global Negotiations on international economic co-operation for development from 1982;
2. Decides that the Conference will first establish the procedures, agenda and time-frame for the global negotiations;
3. Decides that the Conference will function throughout and reach agreement on the basis of consensus;
4. Decides that the Conference, in accordance with the Charter of the United Nations, will exercise the central role in the global negotiations and in that context will entrust specific agenda items or parts thereof, together with appropriate objectives and guidance, to specialized fora within the United Nations system in accordance with their competence, functions and powers, or to such ad hoc groups it may create if necessary;
5. Decides to accord high priority to the Conference in relation to other United Nations activities except those of the principal organs established by the Charter of the United Nations in respect of facilities and services, and requests the Secretary-General to provide the necessary documentation to the Conference;
6. Decides that the Conference will report to the General Assembly at its thirty-seventh session.

Proposed Resolution with US Amendments

(NB: underlining indicates change from version at TAB A)

The General Assembly,

Having considered the item entitled "Launching of the Global Negotiations on international economic co-operation for development",

Noting resolution 34/138,

1. Decides to convene a United Nations Conference for Global Negotiations on international economic co-operation for development from 1982;
2. Decides that the Conference will first establish the procedures, agenda and time-frame for the global negotiations;
3. Decides that the Conference will function throughout and reach agreement on the basis of consensus;
4. Decides that the Conference will exercise the central role in the global negotiations while respecting the jurisdiction, competence, functions and powers of the specialized fora within the United Nations system, and in that context will entrust to them specific agenda items or parts thereof together with appropriate guidance, or, where no such fora exist, to ad hoc groups it may create;
5. Decides to accord high priority to the Conference in relation to other United Nations activities except those of the principal organs established by the Charter of the United Nations in respect of facilities and services, and requests the Secretary-General to provide the necessary documentation to the Conference;
6. Decides that the Conference will report to the General Assembly at its thirty-seventh session.

C

Impact of Global Negotiations in the UN
on International Financial Institutions [redacted]

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Summary

At the Cancun Summit in October leaders of 22 industrialized and developing countries agreed to renew attempts to launch a process of Global Negotiations in the United Nations. The Third World appears ready to compromise utopian plans for restructuring the world economy and accept negotiations that would provide procedural protection for the competence of the World Bank and the International Monetary Fund. Global Negotiations in the UN will provide the Third World political leverage to accelerate evolutionary change in the international financial institutions but will not damage their independent legal status or autonomous decisionmaking. [redacted]

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This memorandum was prepared by [redacted] Office of Global Issues, at the request of Ambassador Jeane J. Kirkpatrick, Permanent Representative to the United Nations. It has been coordinated with the Office of East Asian Analysis and the Office of European Affairs within NFAC. Information available as of 2 December 1981 has been used. Comments and queries are welcome and may be addressed to Chief, Third World Issues Branch, Economics Division, Office of Global Issues [redacted]

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The Global Negotiations Debate

The ambiguous final report issued at Cancun did not set any time frame or mechanism to begin Global Negotiations. To keep the process alive the UN General Assembly must pass a resolution before its current session ends in late December. However, the United States and the LDCs' caucus, the Group of 77 (G-77), maintain quite different concepts of Global Negotiations. []

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The G-77 wants Global Negotiations based on General Assembly Resolution 34/138. In 1979 the General Assembly decided to launch a round of global and sustained negotiations to restructure "international economic relations on the basis of the principles of justice and equality." Negotiations were to take place within the UN system on such topics as raw materials, energy, trade, development, and money and finance. The General Assembly was given a central role to ensure a coherent and integrated approach involving the simultaneous participation of the specialized agencies. []

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The United States now rejects 34/138 and will seek new language compatible with the four "understandings" it advanced at Cancun. The US insists that Global Negotiations:

- o Deal with specific, identifiable obstacles to development.
- o Not create new institutions or weaken the power of specialized agencies such as the IMF and World Bank.
- o Focus on international growth and development that is mutually beneficial to both industrialized states and LDCs.
- o Take place in a cooperative, nonpolemic atmosphere. []

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The President of the General Assembly, Ismat Kittani, is consulting with UN delegations in an attempt to reach a consensus solution. He probably will be able to achieve an ambiguous new resolution that launches Global Negotiations, but without

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making Resolution 34/138 the basis for the negotiations. If such a solution is accepted,
Global Negotiations could begin in early 1982.

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The UN and the Specialized Agencies

The UN and the International Monetary Fund and International Bank for Reconstruction and Development (World Bank) are distinct international organizations that derive their power from separate treaties. While the General Assembly has the power to discuss and make recommendations, it has no control over the Fund or the Bank. The General Assembly by passing a resolution cannot alter the basic allocation of legal powers in the UN Charter and transform itself into a decisionmaking body or change the nature of the relationship with specialized agencies. The formal mechanism of interaction between the agencies and the UN is a process of consultation and recommendation. Each organization is required to "consider" proposals or recommendations of the other, but there is no commitment to act. The founding agreements also provide for reciprocal representation, exchange of information, and various liaison functions.

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The link between the United Nations and the international financial institutions is defined in the UN Charter, the Articles of Agreement of the IMF and the World Bank, and separate agreements that brought the specialized agencies into relationship with the United Nations. It is important to note that the IMF and the World Bank may terminate their relationship with the UN upon six months' written notice.

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According to the Charter, the General Assembly may make recommendations concerning international economic cooperation. It has broad powers to discuss any question or matter relating to the powers and function of the specialized agencies and may make recommendations for the coordination of the policies and activities of these agencies.

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The UN Charter indicates that the specialized agencies are established by

intergovernmental arrangements and that their wide international responsibilities are defined in their own founding instruments. The UN Economic and Social Council is the body that is authorized to enter into agreements with specialized agencies that determine their relationship with the United Nations, subject to approval by the General Assembly.

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The Articles of Agreement for the World Bank and the IMF authorize cooperation with other international organizations. Any arrangement for cooperation that involves a modification of any provision of the Articles is subject to an amendment procedure. This requires the approval of the Board of Governors where weighted voting applies and acceptance by three-fifths of the members with four-fifths of the voting power. As a practical matter, the US currently can veto any amendment because of its voting strength.

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The agreements that brought the IMF and the World Bank into relationship with the UN specifically acknowledged the autonomous nature of these financial institutions. The agreement with the Bank provides that "by reason of the nature of its international responsibilities and the terms of its Articles of Agreement, the Bank is, and is required to function as, an independent organization." With respect to the sensitive issue of loans, for example, the UN explicitly recognizes that "action to be taken by the Bank on any loan is a matter to be determined by the independent exercise of the Bank's own judgment." The UN also recognizes that "it would be sound policy to refrain from making recommendations to the Bank with respect to particular loans or with respect to terms or conditions of financing by the Bank."

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G-77 Demands for Change in the Specialized Agencies

As long as the process of Global Negotiations is kept within the UN framework the General Assembly can do nothing more than make recommendations to the international financial institutions. Any change will have to be made from within the organizations

themselves. Approved For Release 2008/07/28 : CIA-RDP84B00049R000200260009-8 rd World
demands depends on the G-77's ability to use the General Assembly to apply political
pressure on the internal decisionmaking processes of the specialized agencies.

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The G-77 wants the IMF and the World Bank to serve as agents for Third World development. The industrial nations created the international financial institutions before most Third World nations achieved independence, and the G-77 claims that the structure and the objectives of the Bank and the Fund need to be "modernized" in order to meet the needs of the contemporary international economy. It wants to:

- o Expand resources available for lending to the LDCs by permitting the World Bank to guarantee and the IMF to co-finance private bank loans.
- o Link creation and allocation of Special Drawing Rights (SDRs) to LDC development needs.
- o Increase availability of IMF resources to LDCs by easing the conditionality requirement that a government implement deflationary economic policies in order to qualify for loans.
- o Increase LDC participation in Bank and Fund decisionmaking by modifying the existing system of tying a country's voting strength to its financial contribution.
- o Create a World Bank affiliate to provide concessional financing for LDC energy projects.

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Receptivity to Reform

There is virtually unanimous support among industrialized countries to maintain the existing voting structure in the IMF and the World Bank. They see weighted voting as the key to preserving the financial integrity of the Bank and the Fund. However, most industrial countries are to varying degrees willing to consider marginal reforms.

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Their receptivity is based on several factors. Practically all believe poverty nourishes political instability and invites Soviet meddling, and see industrialized countries' generosity as stability-enhancing. Several think increasing the volume of North-to-South resource transfers will increase the Third World's purchasing power, and hence its demand for industrialized countries' exports. Most believe effective

ATTITUDES ON IMF/WORLD BANK REFORM

<u>Country</u>	<u>Issue</u>					<u>Comments</u>
	<u>Expanded Resources</u>	<u>SDR Link</u>	<u>Relaxed Conditionality</u>	<u>Altered Voting Strength</u>	<u>World Bank Energy Affiliate</u>	
Japan	O	O	O	O	F	Will support cosmetic reform to enhance credentials with Third World.
West Germany	F	O	F	O	F	Believes some reform may be in order but will not take leadership role.
France	F	F	F	O	F	Philosophically committed to economic reform.
United Kingdom	O	O	O	O	F	Skeptical about reform but EEC may moderate UK position.
Canada	F	F	F	O	F	Seeks leadership role in negotiated reform.
Italy	F	F	F	F	F	Believes reform will promote North/South cooperation without endangering institutions.

F = Favors; O = Opposes

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managemen... Approved For Release 2008/07/28 : CIA-RDP84B00049R000200260009-8 d World cooperation. Many have profitable political and economic relationships with Third World countries, and are anxious to appear conciliatory to the G-77. []

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Thus far, most industrial nations have given the G-77 political support but have maintained basically conservative positions in the international financial institutions. Global Negotiations could be the catalyst that impels industrialized countries to make a political decision on whether they wish to transform their reformist sentiment into concrete action. []

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Diplomatic Pressure

The G-77 will use Global Negotiations to pursue its strategy of making reform of the international financial institutions a political as much as an economic question. Most UN members envisage Global Negotiations in three phases. In the first phase the General Assembly will issue guidelines and recommendations to the specialized agencies. The G-77 will use this segment to dramatize and politicize its demands by packaging them into a "world economic development plan." It will then press the industrialized countries to commit themselves before the onset of the second phase to reform the financial institutions. In the second phase the specialized agencies will consider the General Assembly's suggestions, make their decisions on development policy, and report back. In the third phase, the General Assembly will assess the work of the specialized agencies.

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[] There are incentives for most industrialized countries to acquiesce to the principle of reform. Domestic political and economic conditions inhibit them from making significant concessions to the G-77 on trade and aid. The industrialized countries view marginal reform in the financial institutions as a relatively low-cost method of pursuing their higher priority objective of maintaining good political and economic relations with the Third World. []

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A few industrial countries, such as France and Canada, will take the lead in mobilizing the latent support for reform. If they construct a position that incorporates some G-77 demands but appears to preserve the integrity of the financial institutions, they will attempt to nudge other developed countries toward a consensus position within the EEC and the OECD favoring reform.

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Prospects

Consensus on proposals in the General Assembly will not translate directly into specific decisions within the financial institutions. The finance ministries of major industrial nations have a strong voice in their government's policies within the IMF and the World Bank and will resist change. During the complex technical negotiations within the financial institutions, vague generalities will emerge as watered down concrete actions. The professional staffs of the financial institutions favor decisions based on economic rather than political criteria. Nonetheless, the international financial institutions are increasingly sensitive to LDC requests for concessional development assistance.

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Global Negotiations in the UN are likely to moderately accelerate the process of evolutionary change within the international financial institutions. The independent nature of the financial institutions and the power of weighted voting give the United States a veto and the ability to control the pace of change. Political and economic incentives for Western Europe and Japan to lend support to Third World proposals mean, however, that the United States may have to act alone to ensure autonomy and financial discipline of the IMF and the World Bank.

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27 November 1981

To : Ambassador Kirkpatrick
Through : Ambassador Sherman
From : Herbert Reis *HR*
Subject : Specialized Agency Autonomy and Global Negotiations

To put it in a nutshell, there is a legal obligation obtaining as between each Specialized Agency and the United Nations, differences in the various Relationship Agreements notwithstanding. The legal obligation on the part of the Specialized Agency is to consider in good faith any recommendations that the General Assembly (or ECOSOC) may address to it; freedom to decide the question remains with the Agency.* This is the most balanced conclusion that can be reached from a reading of the U.N. Charter, the constituent instrument of the Specialized Agency concerned and the Relationship Agreement concluded between the General Assembly and the Specialized Agency for which Articles 57 and 63 of the U.N. Charter expressly call.

A reading of the 1947 GA-IMF Relationship Agreement may provide insight into the relations between the GA and the financial institutions generally. This Relationship Agreement begins by recognizing that the Fund is to function as "an independent international organization" (Art. 1, para. 2) and, having so stated, lays down a call for cooperation by offering such modalities as reciprocal representation at GA and IMF Board of Governors meetings; a guarantee of consideration by the Fund of any GA proposal for an agenda item for the IMF Board of Governors, and vice versa; and exchange of information commitments, especially in the statistical field. Meriting special consideration in the global negotiations context are the specific provisions of Art. IV requiring that:

* A more substantial legal obligation on the SA's arises with respect to those rare binding decisions taken by the Security Council under Chapter VII of the U.N. Charter, not here relevant.

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2.

"1. The United Nations and the Fund shall consult together and exchange views on matters of mutual interest.

"2. Neither organization, nor any subsidiary bodies, will present any formal recommendations to the other without reasonable prior consultation with regard thereto. Any formal recommendations made by either organization after consultation will be considered as soon as possible by the appropriate organ of the other." (Emphasis added)

It is against this background that I describe the legal obligation of the Fund as requiring, but being limited to, consideration in good faith of any recommendation the General Assembly may make following consultation between the two bodies. One may find a parallel in the legal obligation of a U.N. Member State as to General Assembly recommendations, which is that the Member is obliged to consider in good faith, and retains freedom then to decide its action with regard to, a recommendation made by the General Assembly.

As to global negotiations, I believe a realistic guarantee that the General Assembly will not impose its will on the IMF or IBRD lies in (i) the Relationship Agreement obligations and (ii) the consensus commitment on which the U.S. has insisted in respect of "decision-making" on global negotiations issues in the General Assembly or its Committee of the Whole or other subsidiary body. United States participation in any such "decision-making" would constitute the assurance that the autonomy of the financial institutions will be respected.

I would be happy for an opportunity to discuss this.

CC: Ambassador Sorzano
Mr. Clark

HReis: 11/27/81.

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December 4, 1981

M E M O R A N D U M

SUBJECT: Discussion with UK on 34/138

Nicholas Bain of UK FCO discussed points in draft GN resolution starting with EC-10 attachments to Resolution 34/138, particularly why EC-10 strongly prefers the word "reaffirms" rather than "recalls" 34/138.

First, Bain said EC-10 view is that 34/138 defines what GN is all about. It is the only agreed UN document that does that. Without it, we do not know where we are going and GN could be directed in any one of a number of directions we might not want it to go.

Second, Para 2 (d) of 34/138 contains a number of useful basic principles, upon which GN would be based, including "mutual benefit" and "common interest". He said these kinds of principles are reaffirmed all too infrequently in the UN and it was important that they be reaffirmed.

Third, he said 34/138 lays down the basic elements of the agenda of GN including the topic of energy to which the EC-10 attaches importance. He said the EC-10 believes this may be the only opportunity to get an international discussion on energy matters and that it would be important to get such a discussion, even though conditions in the international oil market have eased since 1979. He commented that the EC-10 has sometimes felt suspicion that because the US is more self-sufficient in energy than western Europe that the US would be happy to see any reference to a discussion of energy disappear.

Fourth, he said EC-10 also attaches importance to operative paragraph 3 of 34/138 because it states clearly that GN will not pre-empt work in any of the specialized agencies. He said some people in the past had indicated that GN would somehow be the center of all activity on all issues and this paragraph effectively precludes that.

Fifth, he said 34/138 insures a coherence and integrated approach to issues. He said he understands the US is keen on a case-by-case approach to issues but the EC view, he said, is that there is considerable merit in a coherent and integrated approach to how various issues fit together. He

emphasized that in the EC-10's view, this does not mean a package deal in which any agreement in one area would be subject to a sort of tradeoff to an agreement in other areas but rather that the relationships between various subject areas could be examined.

Sixth, he said that para 2(a) of 34/138 also states that negotiations will take place in a specified timeframe. The EC-10 attaches importance to bringing GN to an end at some specified time and to insure that GN will not go on forever in an attempt to solve all the problems of the world.

Seventh, he said the EC-10 also sees reference to the "central role of the General Assembly" in the last preambular paragraph and in operative paragraph 2(a) as being useful in the sense that it limits the role of the GN conference to being subject to some higher authority - namely, the GA. In response to a question, he agreed that the ability of the industrialized countries to influence the GA was very limited.

He agreed that 34/138 had a number of "vices", especially the preambular language mentioning NIEO and a restructuring of the international economic relations, with justice and equality, but he said this kind of rhetoric was familiar in the UN and elsewhere and should not be the cause of concern.